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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
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OFFICE OF PETITIONS

In re Patent No. 7,917,163
Messay Amerga
Issue Date: March 29, 2011
Application No. 10/650,564
Filed: August 27, 2003
Atty. Dkt. No. 020673

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R. § 1.705(d) filed March 26, 2011. Patentees request the Office to revise the patent term adjustment in the above-identified patent from eight hundred fifty-six (856) days to nine hundred eighty-seven (987) days.

The request for correction of the patent term adjustment (PTA) indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **(987)** days.

On March 29, 2011, the application matured into U.S. Patent No. 7,917,163, with a revised patent term adjustment of 856 days. In effect, Patentees point out that the Office erred in counting both a period of reduction of 131 days associated with the granting of a petition to revive, and a period of 235 days of applicant delay for abandonment of the application for failure to respond to an Office action.

Patentees are correct. 37 C.F.R. § 1.704(c) states:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

- (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
- (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

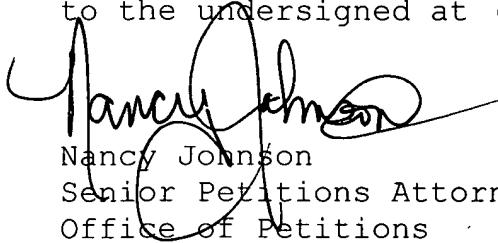
Therefore, Applicants should have been assessed delay for the period beginning on September 26, 2009 (the date the application became abandoned) to May 18, 2010 (the date the decision reviving the application was mailed), or 235 days. The period of reduction of 131 days associated with the petition to revive is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of NINE HUNDRED EIGHTY-SEVEN (987) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by NINE HUNDRED EIGHTY-SEVEN (987) days.

Telephone inquiries specific to this letter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Attachment: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,917,163 B2

DATED : **March 29, 2011**

DRAFT

INVENTOR(S) : Amerga

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 856 days

Delete the phrase "by 856 days" and insert – by 987 days--